

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Bail Appl..No. 7815 of 2007()

**CMP.5619/2007 of J.M.F.C.-I, PUNALUR
CRIME 407/07 OF ANCHAL POLICE STATION**

PETITIONERS/ACCUSED NO.1 AND 2

- 1. PRINCE JOY, S/O. MATHAI JOY,
PARA ESTATE VEEDU, VATTAKAITHA, NARIKKAL MURI,
KARAVLOOR VILLAGE.**
- 2. MAHESH KUMAR, S/O. RAMARAJU,
CHARUVILA VADAKKATHIL PUTHEN VEEDU,
NADUVANNOOR KUNDARAPPADY, AVANEESWARAM MURI,
PIDAVOOR VILLAGE.**

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENTS: COMPLAINANT

**STATE OF KERALA, REP. BY SUB INSPECTOR
OF POLICE, ANCHAL POLICE STATION,
(CRIME NO.407 OF 2007), REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

R. BASANT, J.

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B.A. No. 7815 OF 2007 B
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Dated this the 17th day of December, 2007

O R D E R

Application for regular bail. Petitioners are accused Nos.1 and 2. They face allegations of having committed theft of a motor cycle from a residential premise on 1.12.07.

2. The vehicle parked by the de facto complainant in his compound was taken away stealthily. The de facto complainant immediately passed on information to the local police. The local police traced the vehicle and arrested the petitioners. They have remained in custody from 1.12.07. They face allegations in the crime registered under Section 379 read with 34 IPC.

3. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They were not stealthily removing the vehicle. They were taking re-possession of the vehicle as authorized by the financier of the

vehicle who had a right of re-possessing the same. In these circumstances, in any view of the matter, the petitioners who are students working part time for the financier may not be compelled to endure the trauma of further incarceration in custody. The learned counsel for the petitioners produces copy of a letter in which it is claimed that they had the requisite authority under which re-possession was effected.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation is not completed. The antecedents of the petitioners will have to be verified. The assertion made in the bar that the petitioners are authorised representatives of a finance company cannot now be accepted. No documents were available in support of such an authority at all at the time of seizure of the vehicle. The learned Public Prosecutor submits that the law has to frown upon such attempts to remove vehicle stealthily from the possession of a person and the subsequent attempt to justify the same by staking a claim

under a financial company.

5. I have considered all the relevant inputs. I agree with the learned Public Prosecutor. The allegations are serious and grave. I am satisfied that the investigators in a serious crime like this are certainly entitled to further time to complete the investigation.

6. I am satisfied that the petitioners are not entitled to the invocation of the extraordinary equitable discretion under Section 439 Cr.P.C. at this early stage of investigation.

7. In the result, this petition is dismissed. However, I may hasten to observe that the petitioners shall be at liberty to move this court or the Sessions court for bail again at later stages of the investigation not, at any rate, prior to 27/12/2007. The investigators shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

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